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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,624	12/26/2001	Terry Bruce	15584.1	1108
22913	7590	01/03/2006	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			LE, TAN	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,624

Applicant(s)

BRUCE, TERRY

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is responsive to Applicant's amendment filed 10/13/05 for application No. 10/019,624. This application contains claims 1-15 and 23-24. Claims 16-22 have been canceled. Claims 23-24 have been added.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 and 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-15 and 23-24 are rejected because the necessary structural cooperative relationship between the elements such as between a first locking mechanism, a second locking mechanism, a handle assembly, a pin, a securing means and connection means etc. as recited in claims 1, 2, 3, 3, 5, 7, 11, 23 and 24 have been omitted. Thus, the claims are merely a catalog of elements. As such the claims are failed to particularly point out and distinctively claim the apparatus rendered the claims indefinite.

Claims 3, 24, each recites "connection means" and claim 11 recites "hose securing means" without specifying a corresponding function to be performed. Accordingly, no basis is provided for determining what would be an equivalent structure. In particular, it is unclear what function the "connection means" or "hose securing

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means" is performing. Failure to properly recite a function for the "connection means" or "securing means" in accordance with the sixth paragraph of Section 112 will result in the element being read merely as a "connection" or "securing" (claim 11). It is also unclear to what the element ultimately accomplishes in relationship to what the other elements of the claim and the claims as a whole accomplish. Note: "connection" should be changed to --connecting --.

It should also be noted, the "wherein" clause (claim 1, last three lines) of the subject matter should be positively set forth in the body of the claim. Currently, applicant is improperly using a "wherein" to purportedly define structure of the apparatus. The claim uses a functional "wherein" clause that is failed to particular point out and distinctively claim the apparatus but only allude to the merit of purposes.

Claims 3, 23 and 24, each possess the similar "wherein" clause, see claim 3 (last three lines), claim 23 (lines 4-6 and 10-11) claim 24 (, lines 9-12 and 15-18) which is also failed to particular point out and distinctively claim the apparatus but only allude to the merit of purposes.

Applicant should also be noted that patentability is based on the structural recitations defining the hose clamp and not how it is intended to be used where there are no structural limitations to support the intended used.

Claim 1 recites the limitation "the plane" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3, 603,539 to Clegg., Jr.

As to claim 1, Clegg, Jr. teaches a universal hose clamp comprising a hose locating mechanism comprising a first locking mechanism (52, 54) which moves between locked and unlocked position, the first locking mechanism comprising a handle (52) and a pin (54) having a first axis wherein the handle rotates relative to the pin in a plane of the pin to move the first locking mechanism between the locked and unlocked position (see also col. 2, lines 25-29); a securing means (42, 46, 26, 28) for securing the locating mechanism to a support structure (22); and a hose coupling (50).

As to claim 2, the universal hose locating mechanism further comprises a second locking mechanism (24, 30, 32) which moves between a locked and unlocked position wherein in the unlocked position.

As to claim 3, the second mechanism also comprises a second handle (32), a connection (any connection therein) and a second pin (pin connection between 40 and 30 or element 36).

As to claims 4 and 8, the securing means comprises a first female (a hole at pin 36 for example) and a base clamping mechanism (26) where in when the second

locking mechanism is in the locked position, the second pin lockably engages with the first female member.

Claim 23 recited structural limitations similar to those recited in claim 1, is therefore also disclosed by Clegg, Jr.

Claim 24 recited structural limitations similar to those recited in claims 1-3, is therefore also disclosed by Clegg, Jr.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clegg, Jr. in view of US Patent No. 3,129,970 to John.

Regarding claims 11-14, Clegg Jr. lacks teaching of the hose coupling further comprises the gripping aid, a mounting band and wherein the gripping aid is made of flexible material comprising rubber, and the gripping aid and a mounting band are cylindrical in shape. Byerly teaches such a claim where the gripping aid is made out of flexible material namely rubber in order to deform and to press hard against the pipe, as well as, to provide frictionally hold while preventing damages to the pipe.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the hose coupling with the gripping aid, a mounting band as taught in Byerly so that that the rubber can be pressed hard against the pipe or hose

to provide tightly secure as well as to minimize the damages to the pipe or hose. Byerly also teaches the hose securing means being a screw threaded mechanism (18).

Allowable Subject Matter

6. Claims 5-7 and 9-10 are rejected as being dependent upon a rejected base claim under 112 second paragraph. These claims would be favorably considered if Applicant specifically amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1-15 and 23-24 have been considered but are moot in view of the new ground of rejection. The new ground of rejection is based on some other rejections have not been raised by the examiner in the previous office action. Any inconvenience to Applicant is regretted.

Conclusion

This action is made non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tan Le', with a large, stylized loop at the beginning.

Tan Le
December 9, 2005.